

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

DOVAL JORDAN and)	
BRITTANY WILKINS,)	
)	
Plaintiffs,)	Case No. 07 C 6195
)	
v.)	
)	
LARRY RATTLER, DAVID BIRD,)	Judge Joan H. Lefkow
MICHAEL E. LIPSEY, JEROME DOMICO,)	
JR., RICHARD SANCHEZ, JR., UNKNOWN)	Magistrate Judge Valdez
NUMBER OF UNNAMED OFFICERS OF)	
THE CHICAGO POLICE DEPARTMENT,)	
and CITY OF CHICAGO,)	JURY TRIAL DEMANDED
)	
Defendants.)	

**DEFENDANTS' JOINT MOTION TO DISMISS
COUNT VI OF PLAINTIFFS' COMPLAINT**

_____Defendants, City of Chicago, by its attorney Rita C. Moran, Assistant Corporation Counsel for the City of Chicago, and Defendant Officers Larry Rattler, David Bird, Michael E. Lipsey, Jerome Domico Jr., and Richard Sanchez Jr., move this Court to dismiss Count VI of Plaintiffs' Complaint pursuant to Federal Rule of Civil Procedure 12(b)(6). In support of this motion, Defendants state as follows:

INTRODUCTION

This action arises out of an alleged incident which occurred on May 19, 2006, involving the arrest of Plaintiff Doval Jordan ("Jordan"), by one or more of the Defendant Officers.

Jordan, along with co-Plaintiff Brittany Wilkins ("Wilkins"), filed the Complaint in this matter on November 2, 2007. (See Complaint, attached as Group Exhibit "A"). The Complaint

consists of six counts: a claim for unconstitutional entry and search of Wilkins' home (Count I), false arrest (Count II), failure to intervene (Count III), due process violations (Count IV), a state law malicious prosecution claim (Count V), and a state law claim of conversion (Count VI).

Count VI is directed against all Defendants but is raised only by Jordan. This count is untimely because it was brought after the one-year limitations period had expired. Accordingly, it should be dismissed.

ARGUMENT

Count VI is Time-Barred

Causes of action accruing under Section 1983 are governed by the personal injury statute of limitations in the state where the alleged injury occurred. Doe v. Bd. of Educ. Of Hononegah School Dist. 207, 833 F. Supp. 1366, 1374 (N.D. Ill. 1993), citing Wilson v. Giesen, 956 F.2d 738, 740 (7th Cir. 1992). In Illinois, that limitations period is two years. 735 ILCS 5/13-202 (2006); Licari v. City of Chicago, 298 F.3d 664, 667-68 (7th Cir. 2002). However, local governmental entities and their employees benefit from a one-year statute of limitations for civil actions brought against them. 745 ILCS 10/8-101 (2006). "While the two-year period still applies to § 1983 claims against such defendants, the one-year period applies to state-law claims that are joined with a § 1983 claim." Williams v. Lampe, 399 F.3d 867, 870 (7th Cir. 2005).

Plaintiffs' Complaint alleges that money was taken from Jordan's person when he was searched incident to his arrest on May 19, 2006. See Complaint ¶¶ 8-13. Count VI alleges the Defendant Officers committed the tort of conversion by taking this money from Jordan without a legal basis to do so. See id. ¶¶ 45-50. Jordan's cause of action for conversion accrued on this date, when the money was taken from him. Hence the last day on which Jordan could file suit

for this tort was May 19, 2007 – one year from the date the money was taken from him pursuant to the search incident to arrest. However, he did not file the Complaint until November 2, 2007 – over five months after the expiration of the limitations period. Therefore, Jordan’s state law conversion claim is barred by the statute of limitations and Count VI should be dismissed.

CONCLUSION

For all the reasons set forth above, Count VI of Plaintiffs’ Complaint should be dismissed with prejudice.

WHEREFORE, Defendants respectfully request that this Court enter an order dismissing Count VI of Plaintiffs’ Complaint with prejudice.

Respectfully submitted,

By: /s/ Marcy M. Labedz
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Respectfully submitted,

By: /s/ Rita C. Moran
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have caused true and correct copies of the above and foregoing **NOTICE OF MOTION and DEFENDANTS' JOINT MOTION TO DISMISS COUNT VI OF PLAINTIFFS' COMPLAINT WITH PREJUDICE** to be served on the person(s) named in the foregoing Notice, via electronic mail, at the address therein stated, on April 30, 2008.

/s/ Marcy M. Labedz
MARCY M. LABEDZ